

### **REMARKS/ARGUMENTS**

Claims 1-43 are pending in this application. Claims 33 and 39-43 are currently amended. In view of the following amendments and remarks, Applicants respectfully request reconsideration of the application.

I. **Rejection of Claims 1-5, 17-20, 33, 40 and 41 Under 35 USC § 102(e)**

A. Tu

Claims 1-5, 17-20, and 40 were rejected under 35 USC § 102(e) as being anticipated by U.S. Pat. Pub. No. 2004/0107503 to Tu ("Tu"). The Examiner cites Tu for teaching an inflatable support system having an upper and lower chamber wherein the upper chamber is in fluid communication with the lower chamber. Applicants respectfully traverse this rejection.

Tu is directed to an inflation body structure of an air mattress. (Paragraph 19). Tu teaches the use of a plurality of lower cylindrical inflation bodies each furnished with an air duct, an intake manifold, and an intake tube connected with an air pump. (Paragraph 19). Furthermore, Tu teaches the use of a plurality of upper cylindrical inflation bodies each furnished with an air duct, an intake manifold, and an intake tube connected with an air pump. (Paragraph 19). The upper cylindrical body and the lower cylindrical body are made of two separate cloth pieces and glued into two separate air chambers 29 and 30. (Paragraph 24). As illustrated in FIG. 4, Tu teaches that separate air ducts are connected to

the upper and lower chambers. Tu does not teach upper and lower chambers that are in fluid communication with one another.

The presently pending application claims the benefit of the filing date of Provisional U.S. Patent Application Serial No. 60/396,378 (the "378 application"), filed July 17, 2002. Tu was filed on December 9, 2002. Tu was published on June 10, 2004. Applicants submit that Tu cannot be the basis of the present 102(e) rejection. Applicants respectfully request that the Examiner withdraw the present 102(e) rejections.

Additionally, the presently rejected Claim 1 requires "a lower chamber comprised of a top and a bottom layer; and an upper portion comprising a top and a bottom layer in fluid communication with said lower chamber...." Claims 2-5 depend from Claim 1 and, therefore, include such limitation. Tu does not teach this element.

As to Claim 17, the claimed system requires "an upper portion at least partially defined by at least a first layer having a first elasticity; and a lower chamber in fluid communication with said upper portion...." Claims 18-20 depend from Claim 17 and, therefore, include such limitation as well. Similar to Claims 1-4, this element is not taught by Tu.

Claim 33 has been amended to add the limitation that the upper and lower chambers are in fluid communication with each other. Applicants believe this

amendment places the claim in condition for allowance. No new matter has been added to Claim 33 as a result of the amendment.

As to Claim 40, the claimed method is, "a method of supporting a user, said method comprising the steps of: providing an air mattress defining at least two fluidly connected air chambers, each of said chambers being at least partially formed by panels having varying levels of elasticity." Claim 41 depends from Claim 40 and, therefore, includes such limitation as well. This element is not taught by Tu.

Applicants submit that the cited art does not disclose each and every element of claims 1-5, 17-20, 33, and 40 and 41. Applicants respectfully request that the Examiner withdraw the rejections of Claims 1-5, 17-20, 33-39, and 40-43.

Furthermore, as discussed above, Tu does not disclose the limitation that the upper and lower chambers be in fluid communication with each other. Claims 2, 34 and 35 depend from claims 1 and 33 respectively, each of which include the limitation that the upper and lower chambers or portions be in fluid communication with each other. For this reason as well, Applicants respectfully request that the §103 rejection of claims 2, 34 and 35 be withdrawn.

**II. Rejection of Claims 2, 34, and 35 Under 35 USC § 103(a)**

The Examiner has rejected Claims 2, 34, and 35 as unpatentable over Tu. The Examiner cites Tu for teaching that it would have been obvious to one

having ordinary skill in the art to substitute PVC for the PU material used in Tu. Applicants respectfully traverse these rejections and request reconsideration.

Claims 2, 34, and 35 are all directed to an inflatable support system wherein the upper portion and bottom chamber are formed from PVC material. Applicants' presently-pending patent application claims the benefit of the filing date under 35 U.S.C §119(e) of the '378 application, filed July 17, 2002. The '378 application discloses "[a] main body [that] is preferably formed from a polyvinyl material." ('378 application, p.1, lines 22-23). Furthermore, the '378 application goes on to indicate that "the upper body 22 is preferably formed from high elastic 16 gauge PVC and is shaped to substantially match the shape of the main body 10." ('378 application, p. 2, lines 9-11). Tu was filed on December 9, 2002, and was published on June 10, 2004. Applicants submit that the present record does not provide evidence that the Tu reference can be the prior art basis of the present rejection.

Obviousness can only be established where the cited reference is prior art. In this situation, the '378 discloses an inflatable support system formed from PVC material and predates Tu's filing date. Therefore, Tu is not a prior art reference and cannot form the basis for a rejection under §103(a). For this reason, Applicants request reconsideration of Claims 2, 34, and 35.

**III. Objection to Claims 6-16, 21-32, 36-39, 42, and 43**

The Examiner has objected to Claims 6-16, 21-32, 36-39, 42, and 43 as being dependent upon a rejected base claim, but notes that these claims would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claim 1 is believed to be allowable as described above. Therefore, Applicants respectfully request that the Examiner withdraw the objections to Claims 6-16.

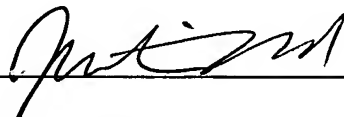
Similarly, Claim 17 is believed to be allowable as described above. Applicants therefore submit that the objections to claims 21-32 should be withdrawn.

The Examiner objected to several claims on the account that there were three claims numbered "38." The second and third claims have been renumbered 39 and 40 respectively and original claims 39-41 have been renumbered, 41-43, respectively. These claims have also been amended to correct their dependencies. No substantive amendments have been made to these claims. Applicants respectfully request that this objection be withdrawn.

**IV. Conclusion**

In conclusion, Applicants submits that they have overcome each of the rejections and objections. Applicants therefore request that the Examiner withdraw the rejections and objections, and grant allowance of the present application. If, for any reason, the Examiner believes that the amendments and remarks do not put the claims in condition for allowance, the undersigned attorney can be reached at (312) 245-5394 to resolve any remaining issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin B. Rand", is written over a horizontal line.

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